



UNITED STATES DEPARTMENT OF COMMERCE
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DM

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/449,093 11/24/99 HARTAL

D 4118

001444 IM52/0918
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

EXAMINER

SHERRER, C.

ART UNIT

PAPER NUMBER

1761

16

DATE MAILED:

09/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Interview Summary	Application No.	Applicant(s)
	09/449,093	<i>Harta et al</i>
	Examiner Curtis E. Sherrer	Group Art Unit 1761

All participants (applicant, applicant's representative, PTO personnel):

(1) Curtis E. Sherrer

(3) Noam Mushkin

(2) Sheridan Neimark

(4) _____

Date of Interview Sep 5, 2001

Type: a) Telephonic b) Video Conference
 c) Personal [copy is given to 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No. If yes, brief description:

Claim(s) discussed: All claims in general, specifically, 1-14, 23-28 and 41-44

Identification of prior art discussed:

Graves et al, Tonnucci, and Iwatsuki (the remainder are basically cumulative to Tonnucci).

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicants will consider arguing that the scope of the phrase "high lycopene content tomato" (Claim 5) is well known in the art. Applicants will consider providing comments directed to the enablement of the invention, e.g., that those in the art would be able to practice the disclosed invention so as to obtain the claimed product. Will consider removing all other phrases that were determined to be indefinite. Will consider amending the claims to include language directed to "retaining the chromoplasts within the solid components" to indicate that the serum is not being used. Will consider submitting evidence to show that industrial heating, i.e., pasteurization, destroys the majority of chromoplasts. Will also consider submitting comments concerning the vague and confusing nature of Iwatsuki and that it therefore is not a valid teaching. Applicants agreed to cancel claim 44 if the Examiner still finds it unpatentable. In conclusion, this interview has moved the prosecution in a positive direction towards allowance.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached



CURTIS E. SHERRER
PRIMARY EXAMINER
ART UNIT 1761

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.